

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

X

ROBERT TOMCZYK

CIVIL ACTION

Plaintiff

NO. 12 CIV 5316 (PAE)  
ECF CASE

VS.

METRO-NORTH RAILROAD COMPANY,

Defendant

X

COMPLAINT

NATURE OF ACTION

1. The plaintiff brings this action against the defendant for injuries suffered by him while in the employ of the defendant Railroad.

JURISDICTION

2. This Court has subject matter jurisdiction in this case pursuant to the Federal Employers' Liability Act, 45 U.S.C. §51. Venue of this action in the Southern District of New York is proper because the defendant Metro North Railroad is headquartered within the District and because its violations of the FELA occurred within the District. Venue properly lies in this Court pursuant to 45 U.S.C. §56.

PARTIES

3. The plaintiff is of Brooklyn, New York.  
4. The defendant, Metro-North Railroad Company, is a railroad corporation duly established by law, and is headquartered in New York, New York.

FACTS

5. During all times herein mentioned, the defendant was a common carrier engaged in the business of interstate commerce, and as such, operated a railroad in such business between New York, New York, and New Haven, Connecticut.

6. At the time the plaintiff received the injuries complained of, he was employed by the defendant Railroad as an Electrician.

7. At the time the plaintiff received the injuries complained of, the defendant Railroad was engaged in interstate commerce and the plaintiff was employed in furtherance of said commerce.

8. On or about July 22, 2009, the plaintiff was engaged in his duties as an Electrician at Grand Central Terminal, 45<sup>th</sup> Street North End Passageway, New York, which terminal, yard and all other equipment and premises appurtenant thereto were owned and/or operated and/or controlled and/or maintained by the defendant corporation or its agents.

9. On that date he was hooking up temporary lighting in the 45<sup>th</sup> Street North End Passageway when he was injured due to electrical shock and burns.

AS AND FOR A FIRST CAUSE OF ACTION

10. The plaintiff adopts by reference and realleges each and every allegation set forth in paragraphs 1 through 9 of this Complaint with the same force and effect as if set forth under this cause of action.

11. As a result of the negligence of the defendant Railroad, its agents, servants, or employees, in, *inter alia*, failing to conduct a job briefing, failing to deenergize the power, and failing to follow safe procedures, the plaintiff was injured.

12. As a result of the failure of the defendant Railroad, its agents, servants, or employees to use reasonable care to provide the plaintiff with a safe place in which to work, including but not limited to furnishing him with safe and suitable premises, the plaintiff was injured.

13. As a result of the said injuries, the plaintiff has suffered and will suffer lost wages and benefits, impairment to earning capacity, medical expenses, pain and suffering, and mental anguish and disfigurement.

WHEREFORE, in order to fairly and justly compensate the negligently injured plaintiff and thereby promote safe operating conditions on the defendant Railroad, the plaintiff demands a judgment for money damages against the defendant Railroad in addition to any further relief the Court deems just and equitable.

PLAINTIFF DEMANDS TRIAL BY JURY.

By his attorneys,

By

  
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